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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,980	04/03/2001	Donald J. Williams	3174-000008	1370

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EXAMINER

DEPUMPO, DANIEL G

ART UNIT	PAPER NUMBER
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3611

DATE MAILED: 11/01/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/824,980

Applicant(s)
Williams et al.

Examiner
Daniel G. DePumpo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Sep 23, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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1. In the "Remarks" filed September 23, 2002, (page 3), applicants indicate that they have filed numerous U.S. and foreign patents that relate generally to switched reluctance motors with segmented stators and to various applications of switched reluctance motors with segmented stators. The examiner presumes that none of these applications constitute prior art against the instant application, and that they do not raise issues of obviousness type double patenting. If this presumption is incorrect, such should be indicated in response to this office action.

2. The listing of references in the specification is not a proper information disclosure statement. Note the document discussed at the bottom of page 2, and patent 5,877,568 discussed at page 4. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Applicant is advised that the date of any re-submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 C(1).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 8-13, 16-19 and 22 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Kliman et al. in view of Applicant's Admitted Prior Art (APA) and further in view of Nishiyama et al. '153.

See the rejection of paper number 6, mailed 6/18/02.

5. Claims 6, 14 and 20 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Kliman, APA and Nishiyama et al. as applied to claims 1-5, 8-13, 16-19 and 22 above, and further in view of Trago et al.

See the rejection of paper number 6, mailed 6/18/02.

6. Claims 7, 15 and 21 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Kliman, APA and Nishiyama et al. as applied to claims 1-5, 8-13, 16-19 and 22 above, and further in view of Mitsui.

See the rejection of paper number 6, mailed 6/18/02.

7. Applicant's arguments filed September 23, 2002 have been fully considered but they are not persuasive.

Applicant argues that "[n]one of the references show, teach or suggest a switched reluctance electric machine wherein the rotor tends to rotate relative to the stator to maximize the inductance of an energized winding, which is a characteristic of switched reluctance motors" (remarks page 3, emphasis added). The examiner does not agree because the base reference to Kliman discloses the use of a switched reluctance motor in automotive power steering. Applicant

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concedes that it is a “characteristic of switched reluctance motors” wherein the rotor tends to rotate relative to the stator to maximize the inductance of an energized winding.

Regarding the combination of Nishiyama with Kliman, applicant argues that the “facts in this case are contrary to the Examiner’s assertion that it would have been obvious to combine the references [because, despite] the existence of the two separate teachings for over 50 years ..., no one has made the combination. If the combination is obvious, then why has it not be done?” This argument is not persuasive because it has been held that “in response to appellant’s argument based upon the age of the references, we would point out, contentions that the reference patents are old is not impressive absent a showing that the art tried and failed to solve the same problem notwithstanding its presumed knowledge of the references”. *In re Neal*, 179 USPQ 56 (CCPA 1973). Moreover, it is noted that the applied references are not “old” as alleged by applicant. Instead, Kliman and Nishiyama are quite new. Regarding the examiner’s motivation for combining these references, applicant refers to page 4 of the office action and states that the motivation is “since [segmenting the stator] is extremely common in the motor art”. The examiner notes that this is not a complete quote of the motivation. Instead, this section of the office action states it “would have been obvious to modify Kliman by making the stator of segment assemblies having the shape taught by Nishiyama so that the winding may be formed easily (col. 4, line 49). This would have also been obvious since this is extremely common in the motor art.”. At col. 4, lines 43-56, Nishiyama extensively discloses the benefits of forming a motor stator from individual segments.

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8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Grennan et al. and Lyons et al. disclose switched reluctance motors including segmented stators.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel G. DePumpo whose telephone number is (703) 308-1113.

dgd

October 24, 2002


DANIEL G. DePUMPO
PRIMARY EXAMINER